

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**PART I: GENERAL INFORMATION**

Requestor's Name and Address: 4600 TEXAS GROUP 2777 ALLEN PARKWAY STE 460 HOUSTON TX 77019	MFDR Tracking #: 	M4-09-B281-01
Respondent Name and Box #: TASB RISK MGMT FUND Carrier Rep Box #: 47	 	

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

The Requestor did not submit a position summary along with the DWC060 package.

Principle Documentation:

1. DWC060
2. Affidavit

Total Amount Sought \$725.49

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Respondents' Position Summary: Taken from the carrier's letter dated August 27, 2009 states in part, "...The MDR dispute being filed by 4600 Group are for expenses not deemed by the workers' compensation carrier as connected to an accepted injury. The correct venue for this type of filing is a Benefit Review Conference rather than MDR...4600 Group was advised on March 25, 2008 that the compensable injury for November 14, 2003 was reported as arms and back, head and shoulders. They were also advised that anxiety was denied in its entirety on another claim (April 07, 2004 DOI) A second notice to 4600 group was sent out on December 22, 2008 stating the compensable injury for date of injury November 14, 2003 did not include mental disorders. We feel this is sufficient to continue denial of payment for an injury deemed not to be related to employment...."

Principle Documentation:

1. DWC060 Response

PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Calculations	Amount in Dispute	Amount Due
Unspecified on the Table of Disputed Services	Unspecified on the Table of Disputed Services	N/A	\$725.49	\$0
Total Due:				\$0

PART V: FINDINGS AND DECISION

This Medical Fee Dispute is decided pursuant to Tex. Lab. Code Ann. § 413.031, and Tex. Lab. Code Ann. §§ 409.009, and 409.0091 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted Rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Tex. Lab. Code Ann. § 409.0091 applies only to dates of injury on or after September 1, 2007 **except** as provided by Sec. 409.0091(s).
2. The services in dispute relate to an injury that occurred on 11/14/03.
3. Tex. Lab. Code Ann. § 409.0091(s) applies for the date of injury 11/14/03.
4. Sec. 409.0091(s) states that if information was provided to a health care insurer before January 1, 2007 under Section 402.084(c-3), the health care insurer may file for reimbursement from the workers' compensation carrier not later than March 1, 2008; and may file a subclaim with the division if the request for reimbursement has been presented and denied not later than March 1, 2008.
5. Tex. Lab. Code Ann. § 409.0091(f) relates to the form and manner in which the health care insurer shall file for reimbursement from the workers' compensation insurance carrier.
6. The provisions of Tex. Lab. Code Ann. §§ 409.009, and 409.0091 apply to dispute resolution.
7. 28 Tex. Admin. Code §§ 140.6, 140.8 and 28 Tex. Admin. Code §133.307 set out the procedures for health care insurers to pursue medical fee dispute resolution.

Issues

In reference to the health care insurer's / subclaimant's request for medical fee dispute resolution, the division will address the following:

- Did the requestor file for dispute resolution in accordance with Tex. Lab. Code Ann. §§ 409.009, 409.0091, and 28 Tex. Admin. Code §§ 140.6, 140.8?
- Is this request eligible for medical fee dispute resolution under 28 Tex. Admin. Code § 133.307?

In reference to the health care insurer's / subclaimant's request for reimbursement from the workers' compensation insurance carrier, the division will address the following:

- Was the requestor eligible to file for reimbursement from the workers' compensation insurance carrier under Tex. Lab. Code Ann. § 409.0091?
- Did the requestor file for reimbursement from the workers' compensation insurance carrier in a timely manner as defined by Tex. Lab. Code Ann. § 409.0091(s)?
- Did the requestor file for reimbursement from the workers' compensation insurance carrier in the form and manner prescribed by Tex. Lab. Code Ann. § 409.0091(f)?

Findings

1. The respondent indicated on the position statement that the injured employee's previous injury on November 14, 2003 was denied in its entirety and a TWCC-21 form was filed on April 23, 2005.. Pursuant to dispute resolution in general under Tex. Lab. Code Ann. §§ 409.009 and 409.0091, and in accordance with the dispute resolution processes defined for subclaimants under 28 Tex. Admin. Code § 140.6(d) (1), the requestor must participate in medical fee dispute resolution in the same manner as an injured employee or in the same manner as a health care provider. 28 Tex. Admin. Code §140.8 (h) states that issues of compensability, extent, liability and medical necessity must be resolved prior to pursuing a medical fee dispute under 28 Tex. Admin. Code § 133.307. 28 Tex. Admin. Code section 140.6(d)(1) and 133.307(e)(3)(H) also require that extent-of-injury issues be resolved through the Tex. Lab. Code Chapter 410 dispute resolution processes prior to medical fee dispute resolution. 28 Tex. Admin. Code §140.8 (h) (1) (A) goes on to state that the appropriate dispute process for unresolved issues of extent requires filing for a benefit review conference pursuant to § 141.1. The division notes that on April 28, 2009 the requestor was given written educational information related to the appropriate dispute process. No documentation was found to support that the issues of extent have been resolved. Therefore, the requestor has failed to support that the services are eligible for medical fee dispute resolution under 28 Tex. Admin. Code §133.307.
2. The services in dispute relate to an injury that occurred on 11/14/03. A data match under Tex. Lab. Code Ann. § 402.084(c-3) is required by Tex. Lab. Code Ann. § 409.0091(s). The requestor provided a document titled "Affidavit of Caldwell Fletcher" which indicates that a data match occurred on July 9th, 2007. On April 28, 2009, MFDR requested the original data file sent from the division with the data matches so that we [MFDR] may verify the information. As stated in the affidavit, documentation to sufficiently support that a data match occurred on July 9th, 2007 was not provided. Therefore, the requestor is not eligible to file for reimbursement under Tex. Lab. Code Ann. § 409.0091.

3. Pursuant to Tex. Lab. Code Ann. § 409.0091(s), a data match had to have occurred before January 1, 2007 in order for the health care insurer (the requestor in this dispute) to file for reimbursement from the workers' compensation insurance carrier. The requestors alleged data match date of July 9, 2007 does not meet the requirements of Tex. Lab. Code Ann. § 409.0091(s). No documentation was found to support that a data match occurred before January 1st, 2007; therefore, the requestor was not eligible to file for reimbursement from the workers' compensation insurance carrier.
4. The requestor did not provide an explanation of benefits with the DWC060. The requestor submitted insufficient documentation to support that the request for reimbursement was filed before March 1, 2008. The requestor was not eligible to file for reimbursement from the workers' compensation carrier because the data match requirements in Sec. 409.0091 (s) (addressed in 1 and 2 above) were not met.
5. Tex. Lab. Code Ann. § 409.0091(f) states in pertinent part "...the health care insurer shall provide, with any reimbursement request, the tax identification number of the health care insurer and the following to the workers' compensation insurance carrier, in a form prescribed by the division: (1) information identifying the workers' compensation case, including: ... and (2) information describing the health care paid by the health care insurer, including:..." The division prescribed DWC Form-026 to meet the requirements under Tex. Lab. Code Ann. § 409.0091(f). No documentation was found to sufficiently support that the requestor included DWC Form-026 with the request for reimbursement. The dates of service and the pertinent description of the services (e.g. ICD-9, CPT, HCPCS, NDC or revenue code), among other information required by that form, were not provided. Therefore, the requestor was not eligible for reimbursement because the request was not filed in the form and manner prescribed by the division.

Conclusion

For each of the reasons stated, the division finds that the requestor has failed to establish that reimbursement in the amount of \$725.49 is due. As a result, the amount ordered is \$0.00.

PART VI: ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. §413.031, the division has determined that the Requestor is entitled to \$0.00 reimbursement.

Authorized Signature

Medical Fee Dispute Resolution Auditor

Date

PART VII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.